

AMENDED IN ASSEMBLY JUNE 24, 2009

AMENDED IN SENATE APRIL 2, 2009

**SENATE BILL**

**No. 374**

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**Introduced by Senator Calderon**

February 26, 2009

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An act to add Chapter 2.7 (commencing with Section 18900) to Division 8 of the Business and Professions Code, relating to personal trainers.

LEGISLATIVE COUNSEL'S DIGEST

SB 374, as amended, Calderon. Personal trainers.

Existing law imposes requirements for a person to hold himself or herself out as a member of a particular vocation or profession, but does not impose those requirements with respect to personal trainers.

This bill would provide that a person may not hold himself or herself out as a personal trainer, as defined, unless he or she has a bachelor's degree in either exercise science, kinesiology, fitness science, or another closely related field, or is certified by a national independent organization, as specified, or by an organization accredited by ~~either~~ the Council for Higher Education Accreditation, *the American National Standards Institute*, or by the United States Department of Education. *The bill would also require a potential employer, other than an individual, to verify that a person holding himself or herself out as a personal trainer is so accredited or certified. The bill would also require a person holding himself or herself out as a personal trainer to renew and maintain his or her accreditation or certification. Under the bill, a first failure to meet this requirement would subject the person to a \$500 administrative fine, a second failure would be subject to a \$750 fine, and a third failure would be subject to a \$1,000 fine and the person*

*could no longer hold himself or herself out as a personal trainer. These fines would be collected by the Department of Consumer Affairs, and deposited into the Consumer Affairs Fund within the State Treasury, and, upon appropriation by the Legislature 50% of the fine money would be transferred to the office of the district attorney for the county in which the personal trainer resides.*

*This bill, upon appropriation therefor, would also require the department to receive consumer complaints regarding personal trainers and to forward a complaint to the district attorney for the county in which the personal trainer resides. The bill would require the district attorney to investigate the complaint, including determining whether the person is accredited or certified as required, thereby imposing a state-mandated local program. The bill would become operative on January 1, 2012.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 2.7 (commencing with Section 18900)  
2 is added to Division 8 of the Business and Professions Code, to  
3 read:

4  
5 CHAPTER 2.7. PERSONAL TRAINERS  
6

7 18900. (a) It shall be unlawful for any person to hold himself  
8 or herself out as a, or use the title of, personal trainer, unless he or  
9 she meets the requirements of paragraph (1) or (2).

10 (1) The person has a bachelor's degree in exercise science,  
11 kinesiology, fitness science, or another closely related field.

12 (2) The person is certified under one of the following:

1 (A) By a national independent organization whose certification  
2 procedures for personal trainers have been approved by the  
3 National Commission for Certifying Agencies (NCCA).

4 (B) As a personal trainer by an organization accredited by either  
5 the Council for Higher Education Accreditation, the  
6 American National Standards Institute (ANSI), or by the United  
7 States Department of Education.

8 (b) For purposes of this chapter, “to hold himself or herself out  
9 as a, or use the title of, personal trainer” means to state or advertise  
10 or put out any sign or card or other device, or to represent to the  
11 public through any print or electronic media, that he or she is a  
12 personal trainer

13 (c) (1) For purposes of this chapter, “personal trainer” means  
14 an individual who has expertise in developing and implementing  
15 physical fitness and training programs for individuals, and who  
16 provides those services through either a direct financial relationship  
17 with an individual or through an organization that is compensated  
18 for making those services available.

19 (2) The term “personal trainer” shall not include an individual  
20 who only provides training in a particular discipline such as yoga,  
21 pilates, or the use of a particular piece of equipment or device such  
22 as a bicycle, that does not include providing advice or assistance  
23 on other aspects of physical fitness and training, such as body  
24 weight management, cardiovascular fitness, endurance, and overall  
25 muscle and strength development.

26 (d) *A person, in order to continue to hold himself or herself out*  
27 *as a personal trainer, shall maintain his or her accreditation or*  
28 *certification pursuant to subdivision (a) in good standing.*

29 (e) *Prior to hiring a personal trainer, a person, other than a*  
30 *natural person, shall verify that the person holding himself or*  
31 *herself out as a personal trainer is in compliance with subdivision*  
32 *(a) of Section 18900.*

33 *18905. A person who violates subdivision (d) of Section 18900*  
34 *shall pay the following administrative fines to the department*  
35 *pursuant to Section 18910:*

36 (a) *Five hundred dollars (\$500) for a first violation.*

37 (b) *Seven hundred fifty dollars (\$750) for a second violation.*

38 (c) *One thousand dollars (\$1,000) for a third violation, and the*  
39 *person shall no longer hold himself or herself out as a personal*  
40 *trainer.*

1     18910. Upon an appropriation by the Legislature therefor, the  
2     Department of Consumer Affairs shall do the following:

3     (a) Accept consumer complaints pertaining to personal trainers.

4     (b) Refer these complaints to the district attorney for the county  
5     in which the personal trainer resides. The district attorney shall  
6     investigate these complaints.

7     (c) Collect administrative fines pursuant to Section 18905 and  
8     deposit the fine money in the Consumer Affairs Fund.

9     (d) Upon appropriation by the Legislature, transfer 50 percent  
10    of the fines collected pursuant to Section 18905 to the district  
11    attorney for the county in which the fined personal trainer resides.

12    18915. This act shall become operative on January 1, 2012.

13    SEC. 2. If the Commission on State Mandates determines that  
14    this act contains costs mandated by the state, reimbursement to  
15    local agencies and school districts for those costs shall be made  
16    pursuant to Part 7 (commencing with Section 17500) of Division  
17    4 of Title 2 of the Government Code.